

BEFORE THE  
FAIR POLITICAL PRACTICES COMMISSION  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

SALVADOR M. BLANCO,

Respondent.

Case No. 2000/672

OAH No. N2001050180

PROPOSED DECISION

Spencer A. Joe, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter on July 17, 2001, in Sacramento, California.

Michelle Bigelow, Commission Counsel, represented the complainant.

There was no appearance by or on behalf of Salvador Blanco ("respondent").

Evidence was received, the record was closed and the matter was submitted.

FACTUAL FINDINGS

1. The complainant, Wayne K. Strumpfer, Executive Director of the Fair Political Practices Commission (the "Commission"), made and filed the Accusation in his official capacity.
2. Respondent became a member of the Central Region Hearing Board (the "Board"), Attorney Position, for the San Joaquin Valley Air Pollution Control District in February 1996.
3. As a member of the Board, respondent is required to file an annual Statement of Economic Interest with the San Joaquin Valley Air Pollution Control District no later than April 1 of each year or until he resigns or is removed from the Board.

4. Respondent failed to timely submit his 1998 Statement of Economic Interest that was due on April 1, 1999. On March 31, 1999, Sissy Smith, clerk to the various boards of the San Joaquin Valley Air Pollution Control District, reminded respondent that his Statement of Economic Interest was due. On July 8, 1999, Ms. Smith informed respondent by telephone that his Statement of Economic Interest had not been received by the deadline date and requested that it be filed as soon as possible.

5. On July 12, 1999, Ms. Smith advised respondent in a letter that his Statement of Economic Interest had not been received by the deadline date and again requested that it be filed as soon as possible.

6. Ms. Smith spoke with respondent on February 22, 2000 and reminded him that his 1998 Statement of Economic Interest had not been received. Respondent asked for another Statement of Economic Interest form, which she provided to him that same day.

7. Respondent's 1999 Statement of Economic Interest was due on April 1, 2000. Ms. Smith called respondent on April 10 and 18 and July 26, 2000 to remind him that his 1999 annual Statement of Economic Interest was past due.

8. On September 12, 2000, Ms. Smith sent respondent by certified mail, a letter that informed him that his 1999 annual Statement of Economic Interest was not received and requested that he file it as soon as possible. Ms. Smith admonished respondent that if he did not submit his 1998 and 1999 Statement of Economic Interest documents to her by September 25, 2000, she would refer the matter to the Commission.

9. On October 14, 2000, William Motmans, a Commission investigator, phoned respondent about the Statement of Economic Interest documents that had not been filed. Respondent said that he was aware of this responsibility and that he had the forms and would send them right away. He also stated to Mr. Motmans that as an attorney, he should have known better and should not have procrastinated. Respondent did not offer any excuse or other explanation to Mr. Motmans regarding his failure to timely file the documents.

10. Respondent filed his 1998 and 1999 Statement of Economic Interest on November 13, 2000. His 1998 Statement of Economic Interest was 19 months late and his 1999 Statement of Economic Interest was 7 months late.

11. As a fact in aggravation, respondent's assuming office Statement of Economic Interest was due on March 4, 1996 and was filed two months late on May 3, 1996. His 1997 annual Statement of Economic Interest was due by April 1, 1998 and was filed on March 18, 1999, twelve months late.

## LEGAL CONCLUSIONS

1. The Commission is charged with the duty to administer, implement and enforce the provisions of the Political Reform Act of 1974, Government Code section 81000 through 91015.

2. Government Code section 87300 provides:

"Every agency shall adopt and promulgate a Conflict of Interest Code pursuant to the provisions of this article. A Conflict of Interest Code shall have the force of law and any violation of a Conflict of Interest Code by a designated employee shall be deemed a violation of this chapter."

3. Government Code section 87302(b) provides:

"Each Conflict of Interest Code shall contain the following provisions:

"(b) Requirements that each designated employee, other than those specified in Section 87200, file statements at times and under circumstances described in this section, disclosing reportable investments, business positions, interests in real property and income. The information disclosed with respect to reportable investments, interests in real property, and income shall be the same as the information required by Sections 87206 and 87207. The first statement filed under a Conflict of Interest Code by a designated employee shall disclose any reportable investments, business positions, interests in real property, and income. An initial statement shall be filed by each designated employee within 30 days after the effective date of the Conflict of Interest Code, disclosing investments, business positions, and interests in real property held on the effective date of the Conflict of Interest Code and income received during the 12 months before the effective date of the Conflict of Interest Code. Thereafter, each new designated employee shall file a statement within 30 days after assuming office, or if subject to State Senate confirmation, 30 days after being appointed or nominated, disclosing investments, business positions, and interests in real property held on, and income received during the 12 months before, the date of assuming office or the date of being appointed or nominated, respectively. Each designated employee shall file an annual statement, at the time specified in the Conflict of Interest Code, disclosing reportable investments, business positions, interest in real property and income held or received at any time during the previous calendar year or since the date the designated employee took office if during the calendar year. Every designated employee who leaves office shall file, within 30 days of leaving office, a statement disclosing reportable investments, business positions, interests in real property, and income held or received at any time during the period between the closing date of the last statement required to be filed and the date of leaving office."

4. As set forth in Government Code section 81002(c), an express purpose of the Political Reform Act is to assure that the assets and income of public officials, which may be materially affected by their official actions, be disclosed on a Statement of Economic Interest, so that conflicts can be avoided. Respondent's failure to submit his 1998 and 1999 Statement of Economic Interest in accordance with the prescribed time period was in contravention of the purposes under Government Code section 81002(c).

5. Respondent's failure to submit his 1998 and 1999 Statement of Economic Interest in accordance with the prescribed time period was a violation of the San Joaquin Valley Air Pollution Control District's Conflict of Interest Code as set forth in Government Code section 87302(b). The failure to timely file the 1998 Statement of Economic Interest and the 1999 Statement of Economic Interest constitutes separate violations.

6. During the time pertinent in this decision, Government Code section 83116 provided:

"When the Commission determines there is probable cause for believing this title has been violated, it may hold a hearing to determine if such a violation has occurred. Notice shall be given and the hearing conducted in accordance with the Administrative Procedure Act (Government Code, Title 2, Division 3, Part 1, Chapter 5, Sections 11500 et seq.). The Commission shall have all the powers granted by that chapter.

"When the Commission determines on the basis of the hearing that a violation has occurred, it shall issue an order which may require the violator to:

"(a) Cease and desist violation of this title;

"(b) File any reports, statements or other documents or information required by this title;

"(c) Pay a monetary penalty of up to two thousand dollars (\$2,000) to the General Fund of the state.

"When the Commission determines that no violation has occurred, it shall publish a declaration so stating."

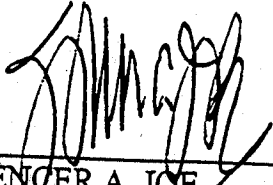
7. Respondent's violation of his duty to submit his 1998 and 1999 Statement of Economic Interest is egregious. His 1998 Statement was nineteen months late and his 1999 Statement was seven months late. He was repeatedly reminded that these documents had not been submitted and was repeatedly requested to comply with the requisite filing. He did not respond to the San Joaquin Valley Air Pollution Control District's clerk admonition that she would refer the matter to the Commission if he did not comply by September 25, 2000.

Respondent acknowledged to the Commission investigator that he was aware of his reporting responsibility and that he would send the documents right away. That "right away" was almost 30 days later. Respondent's "procrastination" was a total disregard of the law and of his responsibility as a public official. As a factor in aggravation, respondent is an attorney and he has a professional obligation to uphold the law. Another factor in aggravation is respondent's prior history of late filings, establishing a pattern and practice of ignoring his obligation to comply with the Fair Political Practices Act. Under these circumstances, it is just and appropriate that respondent be assessed a monetary penalty pursuant to Government Code section 83116(c) of two thousand dollars (\$2,000) for each violation.

### ORDER

Pursuant to Legal Conclusion 1 through 9, respondent Salvador M. Blanco shall pay a monetary penalty of two thousand dollars (\$2,000) for each violation, a total of four thousand dollars (\$4,000), to the General Fund of the State of California, payment to be made within thirty (30) days from the effective date of this Order. In the event that the amount is not paid as ordered, respondent shall pay interest at the legal rate commencing on the thirty-first (31st) day after the date of this Order, plus reasonable attorney's fees and other costs of collection.

Dated: August 1, 2001

  
SPENCER A. JOE  
Administrative Law Judge  
Office of Administrative Hearings